

REMARKS

The Examiner has rejected the application on various bases. Applicant has amended the application so as to overcome the rejections of the Examiner, and so as to place the application in condition for allowance at the present time.

The Examiner has objected to the drawings under 37 CFR § 1.84(p)(4) based on the contention that the reference number "30" is incorrect in Figure 2. Applicant has amended Figure 2 of the drawings so as to change one of the reference numbers "30" to "28." A replacement drawing sheet is provided herewith.

The Examiner has additionally objected to the drawings under 37 CFT § 1.83(a) based on the contention that the drawings appear to position the fitment closer to the bottom seal. Applicant submits that claim 9 has been amended such that this rejection is deemed moot.

The Examiner has required a substitute title which is more descriptive. Applicant has amended the title from "Bag Apparatus" to "A Hanging Bag" so as to provide additional description to the title.

The Examiner has rejected claims 1-9 based on the contention that the claims do not comply with the written description requirement. This is based upon the contention that the Examiner is unclear as to how the fitment functions to dispense fluid in the bag and maintain the bag's fluid-tight integrity. As discussed with the Examiner, Applicant has amended claim 1 so as to render any issues relative to the fitment moot.

The Examiner has rejected claims 1-9 under 35 U.S.C. §112 based upon the contention that they are indefinite. Specifically, the Examiner contends that no structure for the fitment is shown. Applicant submits that in Figures 1 and 2, a sidewall and a flange are shown. In addition, Applicant has amended the claims so as to obviate any issues relative to the fitment.

With respect to an outside object, Applicant submits that the outside object is defined in the specification at paragraphs [0027] and [0028]. Specifically, the outside object comprises hooks or other structures which are separate from the container. In addition, Applicant has amended the claims so as to identify that the "outside object" is a "separate" outside object. Accordingly, any issues relative to the outside object have been corrected.

The Examiner has rejected claims 1, 7 and 8 under 35 U.S.C. §102(e) based on the contention that they are unpatentable over U.S. Pat. No. 6,591,874 issued to Credle, Jr (the '874 patent). The Examiner has rejected claims 4 and 5 under 35 U.S.C. §103 based on the contention that they are unpatentable over the '874 patent. The Examiner has rejected claims 1-9 under 35 U.S.C. §103 based on the contention that they are unpatentable over U.S. Pat. No. 5,749,493 issued to Boone et al (the '493 patent) in view of U.S. Pat. No. 5,542,634 issued to Pomerantz (the '634 patent).

Specifically, Applicant has amended claim 1 to specifically identify the relative position of the hang tabs on the container. In particular, the at least one tab is attached to the respective surface such that the adhesive edge is spaced apart from an upper edge of the container. In such a configuration, upon suspension of the container from a separate outside object by way of the suspending assembly, the adhesive edge becomes the effective top end of the container and the fitment becomes positioned substantially proximate the effective bottom of the container. In such a manner, the container exhibits a greatly enhanced drainage.

Such a configuration is not shown nor suggested by the '874 patent. In particular, with the '874 patent, the container is hung from a hanger (see Figure 4) which is effectively positioned proximate the top edge of the container. Indeed, each of the embodiments, positions any outside coupling assembly proximate the upper edge. As such, the container does not disclose nor

suggest the container that is specifically claimed by Applicant.

With respect to the combination of the '493 patent and the '634 patent, Applicant submits that the references are not combinable. In particular, Applicant submits that there is no motivation to provide a hanging feature for that which is disclosed in the '493 patent. Specifically, the "dipstrip" (as the ribs 30 are commonly referred to in the industry) is an evacuation technique utilized in bag-in-box packaging and the suction withdrawal of fluid from the container. Such a liquid removal system does not contemplate hanging, and indeed, the crucial operation of the "dipstrip" in the '493 patent would be hampered if the container was hung. As such, the '493 patent teaches away from the hanging of the different components. Moreover, even if the two were combinable, there is no teaching or suggestion as to attaching the hang tab of the '634 patent in the manner specifically claimed in Applicant's claim 1, wherein the fitment would become positioned at the effective bottom of the container.

In light of the foregoing, Applicant submits that claim 1, as amended, defines over the prior art of record. In turn, the claims that depend from claim 1, should be deemed allowable at the present time as well.

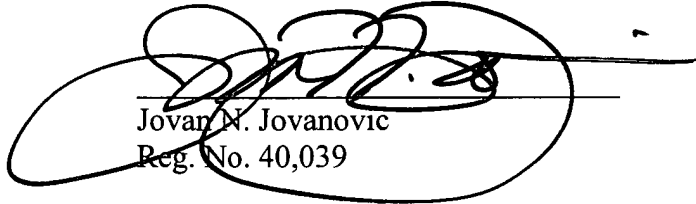
Applicant has added independent claim 10 (and certain dependent claims) which includes features which are not disclosed or suggested by the prior art of record. Accordingly, this newly added independent claim should be deemed allowable over the prior art, as should the claims that depend therefrom.

In summary, Applicant submits that all of the presently pending claims, including, claims 1, 3-5, 10-14, should be deemed allowable at the present time. Accordingly, reconsideration is respectfully solicited.

If any other charges or fees must be paid or credited in connection with this communication, they may be paid or credited out of Deposit Account No. 50-2131.

Respectfully Submitted,

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